

## **BENJAMIN D. SISON, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENTS.**

*G.R. No. 97180. May 08, 1992*

Ponente: GRINO-AQUINO, J.

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### **GRINO-AQUINO, J.:**

In this petition for certiorari, Benjamin D. Sison assails his removal as Municipal Agricultural Officer of San Fabian, Pangasinan, and his subsequent reappointment as Production Technician, for being violative of his right to security of tenure under the 1987 Constitution.

On April 30, 1980, by virtue of Special Order No. 64, series of 1980, petitioner was designated as “Municipal Agricultural Officer for San Fabian, Pangasinan (District III)” by the then Provincial Executive Officer of Pangasinan, Romeo Zarraga (p. 87, Rollo).

On January 1, 1986, he was extended a permanent appointment as Municipal Agriculture and Food Officer (MAFO) in the Ministry of Agriculture and Food, Region I, Pangasinan.

On January 30, 1987, Executive Order No. 116 was issued renaming the “Ministry of Agriculture and Food as Ministry of Agriculture, Reorganizing Its Units Integrating All Offices and Agencies Whose Functions Relate to Agriculture and Fishery Into The Ministry And For Other Purposes.”

As a result of the reorganization, petitioner was removed from his position as MAFO of San Fabian and one Bonifacio Molina, Jr., was appointed in his place (p. 43, Rollo). Petitioner was demoted to the position of Production Technician (p. 46, Rollo).

Petitioner appealed to the Civil Service Commission which referred the case to the Reorganization Appeals Board of the Department of Agriculture (DA-RAB) which denied his request for reconsideration on March 26, 1990.

On October 10, 1990, the CSC dismissed his appeal for lack of merit (pp. 26-29, Rollo). His motion for reconsideration was likewise denied (pp. 60-64, Rollo).

The petition for review should be granted in line with our decision in the consolidated cases of Bustamante, et al. vs. Executive Secretary, Secretary Carlos Dominguez and Civil Service Commission (186 SCRA 109) where we set aside the reorganization of the Department of Agriculture under Executive Order No. 116 for failure to observe the guidelines prescribed in Executive Order No. 17. This Court ruled:

“We are constrained to set aside the reorganizations embodied in these consolidated petitions because the heads of departments and agencies concerned have chosen to rely on their own concepts of unlimited discretion and ‘progressive’ ideas on reorganization instead of showing that they have faithfully complied with the clear letter and spirit of the two constitutions [referring to the Freedom Constitution and the 1987 Constitution] and the statutes governing reorganization.” (186 SCRA 152-153.)

The reorganization of MAO’s in the Department of Agriculture, which is the very same reorganization involved

in the case at bar, was nullified and set aside by this Court in the case of *Parian, et al. vs. Civil Service Commission* (G.R. No. 96535, October 15, 1991), as follows:

“We set aside all those reorganizations including the reorganization of the Department of Agriculture which was effected through examinations given to the employees by the DA/SGV Steering Committee, on the ground that they did not comply with the guidelines in E.O. No. 17, the 1987 Constitution, and Rep. Act No. 6656.

“(1) The President’s Executive Order No. 17 dated May 28, 1986 enumerates the following grounds for the separation/replacement of personnel:

- ‘1. Existence of a case for summary dismissal pursuant to Section 40 of the Civil Service Law;
- ‘2. Existence of a probable cause for violation of the Anti-Graft and Corrupt Practices Act as determined by the Ministry Head concerned;
- ‘3. Gross incompetence or inefficiency in the discharge of functions;
- ‘4. Misuse of public office for partisan political purposes;
- ‘5. Any other analogous ground showing that the incumbent is unfit to remain in the service or his separation/replacement is in the interest of the service.’

“(2) The 1987 Constitution provides that ‘no officer or employee of the civil service shall be removed or suspended except for cause provided by law’ (Sec. 2[3], Article IX [B], 1987 Constitution of the Philippines).

“(3) Republic Act No. 6656 sets clear-cut policies and guidelines on government reorganization to protect the security of tenure of civil service employees and officers.

“All of the above: E.O. No. 17, the 1987 Constitution, and Republic Act No. 6656 were already in place when the Department of Agriculture was reorganized.

“As civil service employees with permanent appointments, the petitioners could not be removed, suspended, or demoted except ‘for cause provided by law.’ Since the records of this case do not show that they had been charged and found guilty of any of the infractions listed in Executive Order No. 17, their replacement and/or demotion in rank was unjustified and illegal.

“Petitioners’ positions as MAFOs were not abolished in the ‘reorganization’ process but were only rebaptized as MAOS. Their functions, duties and stations remained the same. Even the number of MAFO/MAO positions (44) was not altered. Evidently, the so-called ‘reorganization’ was only an excuse for reshuffling and replacing personnel in violation of the latter’s right to security of tenure.”

WHEREFORE, the Court GRANTS the petition and hereby sets aside the Order dated August 31, 1988 of the Regional Director of the Department of Agriculture, and the Resolution dated October 10, 1990 of the Civil Service Commission, dismissing the petitioner’s appeal and ordering his removal from the position of Municipal Agriculture and Food Officer of San Fabian, Region I Pangasinan, pursuant to the reorganization of the Department of Agriculture in 1987 which this Court had declared to be null and void. Petitioner Benjamin D. Sison is ordered reinstated to the said position, without pronouncement as to costs.

### **SO ORDERED.**

Gutierrez, Jr., Cruz, Paras, Padilla, Bidin, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.  
Narvasa, C.J., J., I join Justices Herrera and Feliciano in their dissent.  
Melencio-Herrera, J., I reiterate the grounds of my dissent in the *Mison & companion cases*.  
Feliciano, J., I dissent on the grounds set out in *Herrera, J. dissent Dario v. Mison*.

Bellosillo, J., No part. Did not part in deliberations.

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